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Arizona Corporation Commission

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COMMISSIONERS

BOB STUMP – Chairman
GARY PIERCE
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BOB BURNS
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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF MONTEZUMA RIMROCK WATER
COMPANY, LLC FOR APPROVAL OF
FINANCING TO INSTALL A WATER LINE
FROM THE WELL ON TIEMAN TO WELL
NO. 1 ON TOWERS.

Docket No. W-04254A-12-0204

IN THE MATTER OF THE APPLICATION
OF MONTEZUMA RIMROCK WATER
COMPANY, LLC FOR APPROVAL OF
FINANCING TO PURCHASE THE WELL
NO. 4 SITE AND THE COMPANY
VEHICLE.

Docket No. W-04254A-12-0205

IN THE MATTER OF THE APPLICATION
OF MONTEZUMA RIMROCK WATER
COMPANY, LLC FOR APPROVAL OF
FINANCING FOR AN 8,000-GALLON
HYDRO-PNEUMATIC TANK.

Docket No. W-04254A-12-0206

IN THE MATTER OF THE RATE
APPLICATION OF MONTEZUMA
RIMROCK WATER COMPANY, LLC.

Docket No. W-04254A-12-0207

JOHN E. DOUGHERTY,

COMPLAINANT,

Docket No. W-04254A-11-0323

V.

MONTEZUMA RIMROCK WATER
COMPANY, LLC

RESPONDENT

ARIZONA CORPORATION COMMISSION
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RECEIVED

1 IN THE MATTER OF THE APPLICATION
2 OF MONTEZUMA RIMROCK WATER
3 COMPANY, LLC FOR APPROVAL OF A
RATE INCREASE.

Docket No. W-04254A -08-0361

4 IN THE MATTER OF THE APPLICATION
5 OF MONTEZUMA RIMROCK WATER
6 COMPANY, LLC FOR APPROVAL OF A
FINANCING APPLICATION.

Docket No. W-04254A -08-0362

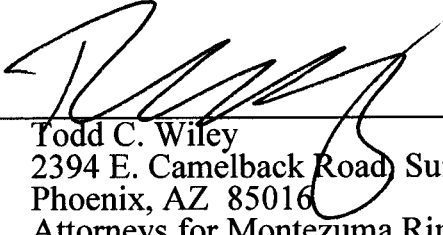
**NOTICE OF FILING DIRECT
TESTIMONY**

7 Montezuma Rimrock Water Company LLC hereby submits this Notice of Filing
8 Direct Testimony of Patricia Olsen in the above-referenced matter.

9 RESPECTFULLY SUBMITTED this 24th day of May, 2013.

10 FENNEMORE CRAIG

11
12
13 By


Todd C. Wiley
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Attorneys for Montezuma Rimrock Water
Company, LLC.

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17 An original and 13 copies
18 of the foregoing was filed
this 24th day of May, 2013,
19 with:

20 Docket Control
21 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

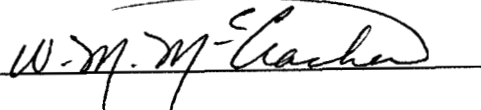
22 A copy of the foregoing
23 was hand delivered/mailed/emailed this
24th day of May, 2013, to:

24 Sarah N. Harpring
25 Administrative Law Judge
26 Arizona Corporation Commission
1200 W. Washington
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Docket No. W-04254A-08-0362

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16 **DIRECT TESTIMONY OF**

17 **PATRICIA OLSEN**

18
19 **May 24, 2013**
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1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Patricia Olsen and my business address is 3031 E. Beaver Creek Rd.,
4 Rimrock, Arizona.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am currently the Manager, Owner and Certified Operator of Montezuma Rimrock
7 Water Company, LLC ("MRWC" or "Company").

8 **Q. WHAT ARE YOUR PRINCIPAL RESPONSIBILITIES AS MANAGER AND**
9 **OWNER OF MRWC?**

10 A. I am responsible for the operation, maintenance, regulatory compliance
11 requirements, budget, billing and overseeing of MRWC.

12 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL BACKGROUND.**

13 A. While I was growing up, my father owned his own well drilling business in which I
14 was able to observe the drilling of wells and maintenance of water supply wells. I
15 previously worked for the City of Glendale as a Wastewater Treatment Operator. I
16 also worked for ADEQ as a hydrologist III. I was Water Superintendant for the
17 City of Cottonwood and I was responsible for approximately 28 well sites (similar
18 to MRWC's well sites), 10,000 customers, the billing system, overseeing the
19 budget and twelve employees. I also was a Certified Operator of other public
20 water supply systems.

21 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

22 A. I received a Bachelor of Science in Geology from Arizona State University (2001),
23 where I studied hydrogeology. I am a grade 3 certified Water Treatment Operator
24 (2002), a grade 2 Water distribution Operator (2002), a grade 3 Wastewater
25 Treatment Operator (2002), and a grade 2 Wastewater Collections Operator (2002).

26

1 Q. HAVE YOU TESTIFIED BEFORE THIS COMMISSION OR ANY OTHER
2 AGENCY?

3 A. Yes, I have testified before the Arizona Corporation Commission in order to
4 purchase the water company and for MRWC's 2007 rate case

5 Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

6 A. I am testifying on behalf of the applicant MRWC in this consolidated rate case
7 proceeding.

8 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY HERE?

9 A. The purpose of my testimony is to support MRWC's application for rate relief,
10 along with responding to the complaint filed by Mr. Dougherty. Specifically, I
11 provide background on the Company and its operations. I also summarize and
12 explain the need for rate relief, along with the significant capital improvements
13 completed by the Company and other operating costs since the last rate case that
14 are now contributing to the need for this rate case. I will address the relief being
15 requested in this case, including rate increases and financing approvals. I describe
16 MRWC's water system and operations and provide a brief history of the
17 Company's recent regulatory activity, along with a discussion of the issues
18 surrounding arsenic treatment. I also provide an overview of the Company's rate
19 filing and testify in support of the Company's proposed adjustments to its rates and
20 charges for water service, including its required level of revenues. Lastly, I address
21 and respond to issues raised by Mr. Dougherty.

22 **II. OVERVIEW OF MONTEZUMA RIMROCK WATER COMPANY.**

23 Q. PLEASE PROVIDE AN OVERVIEW OF MRWC.

24 A. The Company is a Class D water utility that provides water service to
25 approximately 209-220 customers. MRWC's service area is approximately 3/8
26 square miles located near Rimrock and about 10 miles northeast of Camp Verde in

1 Yavapai County. In Decision No. 67593 issued by the Commission on February
2 15, 2005, the Commission approved the sale of Montezuma Estates Property
3 Owners Association's ("MEPOA") assets to the Company, along with a transfer of
4 the Association's CC&N.

5 I was originally hired as a certified operator to assist MEPOA to rectify
6 violations/deficiencies with ADEQ and promote the sale of the water company.
7 MEPOA originally hoped that it could sell the water company to Arizona Water
8 Company if all of those issues could be rectified. In correcting their deficiencies I
9 was able to offer assistance in other areas. In a meeting between Peter Sanchez
10 (MEPOA) and Bill Garfield (Arizona Water) in Sedona, Mr. Garfield told Mr.
11 Sanchez that Arizona Water was not interested in purchasing MEPOA's water
12 company. It was a well known fact that the customers of the system were without
13 water 3 to 4 days a week several times per month. Mr. Gardner made the statement
14 that "[w]e don't need another headache." The association was disappointed that AZ
15 Water was not interested. I then approached MEPOA requesting to purchase the
16 system as I had helped in many areas to improve the system.

17 **Q. HOW MANY CUSTOMERS DOES THE COMPANY SERVE AND WHAT**
18 **TYPE OF CUSTOMERS ARE THEY?**

19 A. Through the end of 2012, MRWC serviced 209 customers and sold 12,370,000
20 gallons of water to its customers. Those customers are primarily residential. There
21 are approximately four duplex/triplexes, two apartments, and five non-operating
22 commercial buildings, leaving 199 residential homes. Although there are 221
23 connections, the customer count usually fluctuates between 201 to 210 on most
24 months. Most of the lots within the subdivision are residential lots and are less
25 than 1/4 acre. These lots are insufficient for private water wells.

26 **Q. PLEASE DESCRIBE THE COMPANY'S WATER SYSTEM.**

1 A. Currently, the water system includes three well sites. They are designated as Well
2 No. 1, Well No. 2 and Well No. 4. According to ADEQ, well site No. 1 is referred
3 to as POE 1 and well site No. 2 is referred to as POE 3.

4 Well No. 1 consists of one groundwater well with a 2,000 gallon hydro tank,
5 one 10,000 gallon storage tank and two 5,000 gallon storage tanks. However, due
6 to the arsenic treatment system, one of the 5,000 gallon storage tanks is delegated
7 to backwash. The 10,000 gallon storage tank has been repaired for leaks. Based
8 on its current condition, it is unlikely that this tank can endure any further repairs.
9 The tank walls are thin due to corrosion and we are careful not to put any
10 additional force on the tank than is necessary.

11 Well site No. 2 consists of Well No. 2 and Well No. 3. It also has a 2,000
12 gallon hydro tank and one 10,000 gallon storage tank. The storage tank is beyond
13 repair and continually leaks. The leaking of the tank causes an additional 3 to 10
14 percent water loss each month depending on the repair and how long the repair
15 lasts. Well No. 2 and Well No. 3 are not currently operating. Well No. 2 was
16 damaged due to re-drilling prior to my purchase of the system. The arsenic level in
17 Well No. 3 is above 40 ppb so it has not been used in a long time. I devised a plan
18 to rezone the system. I had one valve installed and a connection from Well No. 1
19 to Well No. 2 so that the tank at Well No. 2 could be filled. Prior to my purchase
20 of the system, the area north of Beaver Creek did not meet minimal pressure
21 requirements. I was unaware of this as no customers had complained of this.
22 However, after I purchased the system, the customers north of Bentley informed
23 me their pressure was approximately 13 psi. I rezoned the system and now the
24 customers north of Beaver Creek road have pressure ranging from 45 to 55 psi.
25 The system was built in the 1969 and is comprised of approximately six miles of 4-
26 6" schedule 40 pvc.

Well No. 4 is still going through the condemnation process but houses a groundwater well which pumps 150 gpm. No other structures are present. At this time, the system is relying solely on Well No. 1 which produces approximately 50 gpm. The system demand is 36 gpm.

Q. WHEN DID THE CURRENT RATES GO INTO EFFECT?

A. The Company's current rates were approved in Decision No. 71317 issued by the Commission on December 30, 2009. ACC did their rate analysis and determined the current rate structure. However, during that rate case MRWC had requested a \$35,000 increase for purposes of obtaining private financing, which was denied. In order to be able to qualify for private financing, the company needed to have a certain percentage of income. ACC did not approve the request therefore leaving MRWC without any ability to qualify for private financing for such things as an arsenic treatment system.

Q. HAS THE COMPANY EXPERIENCED GROWTH SINCE THE LAST RATE CASE?

A. No, there has been very minimal growth since the last rate case. Even so, the Company has made additional capital investments for arsenic treatment and other water facilities that have contributed to the need for this rate case, including the arsenic treatment system and the building which houses the arsenic treatment system, line replacement, another fire hydrant installation, and multiple repairs.

Q. PLEASE SUMMARIZE THE COMPANY'S RATE APPLICATION.

A. The test year used by MRWC is the 12-month period ending December 31, 2011. The Company is requesting a rate increase of \$ 76,800 based on operating expenses and operating margin. MRWC is a small company and cannot afford any rate analysts or consultants. MRWC simply requests a rate increase to allow revenue sufficient to cover the Company's operating expenses with an appropriate

1 operating margin. MRWC understands that ACC staff will evaluate the
2 Company's requests. MRWC is seeking a revenue requirement sufficient for the
3 Company to pay for arsenic treatment system, the storage tanks, legal expenses,
4 engineering, permitting, and the hydro tank.

5 **Q. WHY IS THE COMPANY FILING FOR RATE INCREASES AT THIS**
6 **TIME?**

7 A. The Company was ordered to file a rate case in Decision No. 71317 issued by the
8 Corporation Commission on October 30, 2009, using a test year ending December
9 31, 2011.

10 **Q. ASIDE FROM BEING ORDERED TO FILE A RATE CASE BY THE**
11 **COMISSION, ARE THERE OTHER REASONS WHY MRWC IS FILING**
12 **FOR NEW RATES AT THIS TIME?**

13 A. Yes, the Company is seeking a rate increase to cover the costs and expenses for the
14 arsenic treatment system, the replacement of the storage tanks, the hydro-
15 pneumatic tank, the need to continue and conclude the connection of Well No. 4,
16 and the need to upgrade the infrastructure which was built in 1969.

17 **Q. DURING THE TEST YEAR, WHAT WERE THE COMPANY'S**
18 **OPERATING EXPENSES AND REVENUES?**

19 A. During the test year, operating expenses were \$93,537 and total revenue was
20 \$101,276. That is not an accurate account of expenses, however, because there are
21 still several invoices that are still unpaid at this time from 2011.

22 **Q. IN 2012, WHAT WERE THE COMPANY'S OPERATING EXPENSES AND**
23 **REVENUES?**

24 A. In 2012, the Company's operating expenses were \$120,846 and total revenue was
25 \$110,129, leaving a substantial shortfall for a class D utility like MRWC.
26

1 **III. SUMMARY OF SYSTEM IMPROVEMENTS.**

2 **Q. CAN YOU DESCRIBE WHAT IMPROVEMENTS WERE MADE TO THE**
3 **WATER FACILITIES AND WHY THEY WERE NECESSARY SINCE THE**
4 **LAST RATE CASE FOR THE COMPANY?**

5 A. As noted above, MRWC installed an arsenic treatment system and a storage
6 building necessary to house the arsenic treatment system, along with infrastructure
7 of well No. 4, line replacement and fire hydrant installation.

8 **Q. WHAT WAS THE TOTAL COST OF THESE IMPROVEMENTS?**

9 A. The total of these costs was approximately \$175,000. We have provided the details
10 and backup for those costs to Commission Staff, along with documentation of
11 operating expenses and other costs incurred by the Company.

12 **Q. WHAT IS MRWC'S COMPLIANCE STATUS?**

13 A. MRWC is currently providing water that meets drinking water standards. MRWC
14 is operating under an ADEQ consent order and will remain so until it has four
15 quarters of testing which proves it is meeting the required drinking water standard.
16 With respect to the County zoning issues relating to Well No. 4, Well No. 4 is not
17 being used. MRWC is currently undertaking the necessary steps to move forward
18 with the condemnation process in order to meet the setback requirement necessary
19 to meeting County requirements for Well No. 4. The County recently imposed a
20 \$5,000 fine due to a complaint filed by Mr. Dougherty relating to returning the
21 Well No. 4 property back to vacant land.

22 **Q. WOULD YOU SUMMARIZE MRWC'S RECENT REGULATORY**
23 **ACTIVITY AND ITS RELATIONSHIP TO THIS APPLICATION?**

24 A. A large part of this rate case relates to the arsenic treatment plant. MRWC is a
25 small company with limited financial resources. MRWC installed a reasonably
26 priced arsenic system and did the best it could to finance the system under difficult

1 circumstances. Originally, a plan to provide reverse osmosis units was submitted
2 prior to my purchasing the arsenic treatment system. At the time, the Company
3 had a total of 73 customers. After the purchase, it grew from 73 customers to 221.
4 MRWC did not believe that reverse osmosis units and the required maintenance on
5 these units approximately every six months was feasible and in the company's best
6 interests. As a result, a centralized system was necessary. According to ADEQ,
7 once a system reaches approximately 166 connections it should then consider a
8 centralized treatment system. ADEQ upholds the EPA drinking water standards
9 and at times enforces the regulations to that end. The requirement for arsenic
10 treatment impacts the company and its finances significantly. The monthly cost for
11 the lease is approximately \$1,500 and it is imperative that the Company receives a
12 rate increase sufficient to pay those necessary expenses.

13 **IV. OVERVIEW OF MRWC'S RATE APPLICATION**

14 **Q. PLEASE SUMMARIZE THE COMPANY'S RATE APPLICATION.**

15 A. MRWC requests a rate increase of \$76,800. The test year is the 12-month period
16 ending December 31, 2011. The 2011 annual report shows a \$7,000 revenue
17 margin. This is not entirely accurate because I don't believe there was \$7,000 in all
18 the combined accounts and there were other unpaid invoices. However, I do
19 believe there was approximately \$2,000 in the bank accounts at the test year end.
20 In 2012, there was a \$10,000 operating expense loss. There is currently no
21 operating margin, especially with the lease agreements for the arsenic facilities.

22 **Q. WHAT ARE THE DRIVING FACTORS FOR A RATE INCREASE AT**
23 **THIS TIME?**

24 A. MRWC has completed construction of the arsenic treatment facilities and the
25 Company is asking for a rate increase in order to earn a fair return on these
26 investments and ensure MRWC has sufficient cash flow to meet its debt service

1 and other obligations. A summary of major plant facilities placed into service,
2 since the end of MRWC's last test year (June 30, 2008) has been provided to
3 Commission Staff. At this time, there is no operating margin. The payment of the
4 arsenic treatment leases is approximately \$1,500 each month. There are no funds
5 available for normal maintenance and repairs. There also are no funds available for
6 employee wages and associated expenses regarding employees.

7 **Q. LET'S TALK ABOUT THE ARSENIC TREATMENT FACILITIES. CAN**
8 **YOU PLEASE DESCRIBE THE BACKGROUND RELATING TO**
9 **ARSENIC TREATMENT.**

10 A. EPA requires water systems to comply with the new drinking water standard that
11 reduces the allowable arsenic level from 50 ppb to 10 ppb. When I started working
12 for MEPOA as a certified operator, arsenic levels fluctuated between 50 to 60 ppb.
13 I implemented chlorination treatment which converts the arsenic IV to arsenic III.
14 It changed the level from over 50 to less than 40 ppb. Current drinking water
15 standards require arsenic levels to be below 10 ppb. Due to the growth of the
16 system, reverse osmosis units were no longer a viable option. A centralized unit
17 was needed in order to meet the current and future demand of the system.
18 MRWC began the process for this by approaching ADEEDGE to procure this system
19 through WIFA funding. ADEEDGE is a company that constructs and installs
20 arsenic treatment systems. As noted below, Mr. Dougherty objected to such WIFA
21 financing and essentially prevented MRWC from obtaining WIFA financing for the
22 necessary arsenic facilities.

23 **Q. HAVE THE ARSENIC TREATMENT FACILITIES BEEN INSTALLED**
24 **AND ARE THEY BEING USED BY THE COMPANY?**

25 A. The answer to both questions is yes. One arsenic treatment facility has been
26 installed and is currently operating and providing water which meets the drinking

1 water standards. The arsenic treatment system was designed to treat 150 gpm.

2 **Q. IS THE COMPANY IN COMPLIANCE WITH ARSENIC TREATMENT**
3 **STANDARDS FOR WATER SERVICE TO ITS CUSTOMERS?**

4 A. Yes. The groundwater monitoring plan was submitted to ADEQ along with lab
5 results demonstrating the proper operation of the arsenic treatment system.
6 Sampling was conducted daily for one week, weekly and then monthly. It must
7 now continue with the quarterly sampling for the life of the system to demonstrate
8 its compliance with the drinking water standards.

9 **Q. CAN YOU EXPLAIN THE LEASE AGREEMENTS WITH NILE RIVER**
10 **AND FINANCIAL PACIFIC?**

11 A. Sure, Nile River and Financial Pacific provided the money to Kevlor Design to
12 construct the arsenic treatment system and the building. MRWC must then pay
13 Nile River and Financial Pacific for the money that was provided to Kevlor Design
14 to build the system and the building. The leases are basically a loan that must be
15 repaid for the system and the building.

16 **Q. PLEASE EXPLAIN HOW THOSE LEASE AGREEMENTS CAME ABOUT.**

17 A. As noted, due to Mr. Dougherty's objections and interference with WIFA, the
18 Company was not able to obtain WIFA funding. As a result, MRWC was left with
19 no other option than to seek funding through lease agreements. I was contacted by
20 Kevlor who was able to assist and construct a system which has been operating
21 sufficiently.

22 **Q. LET'S START WITH THE NILE RIVER LEASE AGREEMENT. CAN**
23 **YOU PLEASE DESCRIBE WHAT THAT AGREEMENT IS FOR AND THE**
24 **CIRCUMSTANCES SURROUNDING THAT AGREEMENT?**

25 A. The Nile River lease is a three year term agreement. It provided the funds
26 necessary to construct the building which houses the arsenic treatment system.

1 Q. NOW, MR. DOUGHERTY HAS POINTED OUT THAT MRWC FILED
2 COPIES OF A LEASE AGREEMENT THAT YOU SIGNED PERSONALLY
3 AND THAT THERE WAS A SUBSEQUENT VERSION OF THE LEASE
4 SIGNED BY YOU ON BEHALF OF THE COMPANY. CAN YOU
5 EXPLAIN WHAT HAPPENED ON THOSE ISSUES?

6 A. Originally, I was supplied with two forms for the lease agreement. I received two
7 leases for the building and the treatment system from Nile River with me
8 personally and then from Nile River and Financial Pacific with MRWC. All were
9 signed by myself but not on the same date because there was a problem in the
10 processing of the documents. To be frank, I myself was confused about the
11 agreements because I was working with Odyssey Financial in order to procure the
12 leases. I was unaware that Nile River or Financial Pacific were involved or what
13 companies these were until copies of the lease agreements were provided. At that
14 time, the Company was under pressure from ADEQ and the County to construct
15 the arsenic facilities and I felt I had no choice but to sign those agreements in order
16 to get the leases in place and build the system.

17 Q. NOW, MR. DOUGHERTY HAS RAISED ISSUES RELATING TO THE
18 DATE OF THE NILE RIVER AGREEMENT AND WHETHER IT WAS
19 SIGNED BY AUTHORIZED PERSONS FOR NILE RIVER. WHAT
20 AGREEMENT IS THE FINAL AGREEMENT WITH NILE RIVER FOR
21 THE ARSENIC BUILDING?

22 A. The March 22, 2012 lease agreement between MRWC and Nile River is the final
23 agreement and that is the agreement that is being used. I signed my signature on
24 the leases. I placed the agreements in an envelope and my husband mailed them to
25 Odyssey Financial. They were returned to my Flagstaff address with the signature
26 for Nile River.

1 **Q. DID YOU INTEND THAT THE COMMISSION AND ITS STAFF WOULD**
2 **REVIEW AND APPROVE THE NILE RIVER AGREEMENT AS PART OF**
3 **THE RATE CASE?**

4 A. Yes. I have always been in contact with ACC Staff to inform them of the steps
5 MRWC/myself are taking relating to the arsenic treatment facilities, including the
6 financing mechanisms.

7 **Q. NOW, LET'S TALK ABOUT THE FINANCIAL PACIFIC LEASE**
8 **AGREEMENT. CAN YOU PLEASE DESCRIBE WHAT THAT**
9 **AGREEMENT IS FOR?**

10 A. The Financial Pacific lease is for the arsenic treatment system itself. When
11 originally provided these documents, I thought I was supposed to procure the
12 leases through Odyssey Financial. I then was provided leases from Nile River and
13 Financial Pacific. I did not consult legal counsel about these agreements at the
14 time and due to the pressure with ADEQ, I signed the leases. Again, I felt it was
15 more important to get the financing leases in place and proceed with construction
16 of the arsenic facilities.

17 **Q. CAN YOU TELL US WHO ODYSSEY EQUIPMENT FINANCING IS AND**
18 **WHAT ITS ROLE WAS RELATING TO FINANCING THE ARSENIC**
19 **FACILITIES?**

20 A. Odyssey is a company that solicits potential clients for funding projects/equipment
21 through leasing, such as the leases with Financial Pacific and Nile River Leasing.
22 My understanding is that John Torbenson is the President of Odyssey. Odyssey
23 provides alternative financing for equipment and projects and assisted in providing
24 funding through Financial Pacific and Nile River Leasing for the arsenic treatment
25 facilities and building.
26

1 Q. NOW, MR. DOUGHERTY HAS RAISED ISSUES RELATING TO
2 DIFFERENT DATES FOR THE FINANCIAL PACIFIC AGREEMENT IN
3 APRIL 2012 AND MAY 2012. CAN YOU EXPLAIN HOW THOSE TWO
4 VERSIONS OF THE FINANCIAL PACIFIC LEASE CAME ABOUT?

5 A. At some point, I was contacted by Financial Pacific regarding an insufficiency with
6 the lease documents. I don't recall the exact details of that issue but I asked when
7 the money could be released to determine whether I would be able to meet the
8 deadlines imposed by the County. The Financial Pacific representative told me
9 that it could take between 30 to 60 days for the financing. As a result, I requested
10 that the leases be dated in both April and May dates so that I could have something
11 to file with ACC as soon as the funding was authorized. I also was told by
12 Financial Pacific that the lease could be dated April or May 2012. I assumed the
13 May document was the final contract.

14 Q. ARE THE APRIL 2012 AND THE MAY 2012 FINANCIAL PACIFIC
15 LEASES THE SAME RELATING TO TERMS AND CONDITIONS FOR
16 THE LEASE ITSELF?

17 A. Yes, the only difference on the two documents that I am aware of is the date. The
18 terms and conditions of the leases in terms of payments, timing and other similar
19 issues are the same. I also would note that the Financial Pacific lease was the only
20 financing available to MRWC for construction of the arsenic treatment facility at
21 that time.

22 Q. NOW, THE COMPANY ENTERED THOSE LEASE AGREEMENTS
23 PRIOR TO SEEKING APPROVAL FROM THE COMMISSION. CAN
24 YOU EXPLAIN HOW AND WHY THAT HAPPENED?

25 A. As noted above, MRWC was under substantial pressure from ADEQ and the
26 County to install the arsenic facilities. In order to move forward with the

1 construction of the system and to attempt to meet deadlines, MRWC was left with
2 no choice but to procure the leases.

3 **Q. AGAIN, DID THE COMPANY INTEND FOR THE COMISSION AND ITS**
4 **STAFF TO REVIEW AND EVALUATE THOSE LEASE AGREEMENTS IN**
5 **THE COMPANY'S RATE CASE?**

6 A. Absolutely, the Company always intended for Commission staff to review and
7 evaluate the leases for the arsenic treatment system. Not to have done so would
8 mean a potential personal liability which I don't feel must or could be shouldered
9 by myself. The fact that we intended for the Commission to review and approve
10 those leases is evidenced by the fact that I docketed the leases in October 2012 in
11 the rate case and the Company filed financing applications for those leases in April
12 2013, again in the rate case.

13 **Q. THE COMPANY HAS FILED A REQUEST THAT THE COMMISSION**
14 **RETROACTIVELY APPROVE THOSE LEASE AGREEMENTS. HOW IS**
15 **THE COMPANY PROPOSING THAT THE COMMISSION TREAT**
16 **THOSE LEASE AGREEMENTS?**

17 A. The Company asks that the Commission approve the lease agreements with Nile
18 River and Financial Pacific and authorize the Company to recover the costs under
19 those leases in the rate case. The Commission approved an arsenic surcharge in
20 Decision No. 71317 and the Company now asks that the Commission approve the
21 leases and recovery of the lease costs as an alternative but similar mechanism to
22 fund the arsenic facilities. There is little doubt that those leases are in the best
23 interests of MRWC and its ratepayers given the underlying circumstances.

24 **Q. WHAT WOULD HAPPEN IF THE COMMISSION DID NOT APPROVE**
25 **THOSE LEASE AGREEMENTS?**

1 A. The simple answer is that the Company would not be able to pay for the leases. It
2 would end up having to sell or relinquish the arsenic facilities and then MRWC
3 would be back to square one relating to the arsenic issues to the detriment of
4 MRWC's customers.

5 **Q. DO THOSE LEASE AGREEMENTS AND THE ASSOCIATED ARSENIC**
6 **TREATMENT FACILITIES BENEFIT THE COMPANY'S CUSTOMERS?**
7 **PLEASE EXPLAIN.**

8 A. The arsenic facilities clearly benefit customers by allowing the Company to
9 provide safe drinking water in compliance with arsenic standards. The lease
10 agreements benefit the customers by providing reasonable financing for the arsenic
11 facilities. In Decision No. 71317, the Commission authorized MRWC to incur
12 long-term debt through a WIFA loan in an amount up to \$165,000. Here, the
13 Financial Pacific Lease for the arsenic treatment plant is for a period of 60 months
14 with monthly payments of \$1,135.96 and an initial down payment of \$2,691.92.
15 The Nile River Lease for the arsenic building is for a period of 36 months with
16 monthly payment of \$342.09 and a deposit of \$734.46. The costs incurred under
17 the Financial Pacific and Nile River leases are fair and reasonable and compare
18 favorably to the approved amounts for the WIFA funding.

19 **Q. DID THE COMPANY EXPLORE OTHER OPTIONS TO FINANCE**
20 **INSTALLATION OF ARSENIC TREATMENT FACILITIES?**

21 A. The Company originally intended to seek WIFA financing, but Mr. Dougherty
22 filed objections with WIFA demanding that an environmental impact statement be
23 undertaken relating to the use of Well No. 4 and operation of the arsenic treatment
24 plant. In turn, WIFA required an environmental study. Faced with potential costs
25 of \$100-200,000 not to mention substantial delays, the Company could not afford
26 the necessary costs for an environmental study as required by WIFA. As a result,

1 MRWC had no choice but to seek private financing for the arsenic treatment
2 facility and the Financial Pacific and Nile River leases were the only viable option
3 available. Ultimately, those agreements are and were in the best interest of the
4 Company and its customers by facilitating construction and operation of an arsenic
5 treatment facility.

6 **Q. AFTER THE WIFA FINANCING WENT AWRY, WHAT OPTIONS DID**
7 **THE COMPANY HAVE TO FINANCE ARSENIC TREATMENT**
8 **FACILITIES?**

9 A. Put simply, the Financial Pacific lease was the only financing mechanism available
10 to the Company for construction of the arsenic treatment plant. The Company did
11 not have any option because ^{the} ACC refused to allow MRWC to seek an emergency
12 rate case so that it could obtain private funding from Sun West Bank.

13 **Q. HOW DID YOU DETERMINE MRWC'S PROPOSED REVENUE**
14 **REQUIREMENT?**

15 A. As noted above, I based the revenue increases on evaluation and compilation of all
16 the required debt service required to keep MRWC solvent.

17 **Q. IS THERE ANY POST TEST YEAR PLANT?**

18 A. Yes, the arsenic treatment system and the arsenic treatment building.

19 **Q. ARE YOU REQUESTING RECOVERY OF LEGAL EXPENSES AS**
20 **ORDINARY OPERATING COSTS? PLEASE EXPLAIN.**

21 A. Yes. As a company, I have the right to defend my company. As of December
22 2012, the Company has incurred \$29,032 in legal fees with attorney Doug
23 Fitzpatrick and \$25,699 in legal fees to Fennemore Craig. These are legal fees
24 outside of the current rate case, including various legal proceeding and actions
25 initiated by Mr. Dougherty and Mr. Buddeke, as well as proceedings before ADEQ
26 and the County.

1 **Q. ARE THOSE LEGAL EXPENSES ORDINARY AND RECURRING**
2 **OPERATING COSTS OF THE COMPANY? PLEASE EXPLAIN.**

3 A. These legal expenses are ordinary and are recurring operating costs of the company
4 due to the continuing harassment of the Company by Mr. Dougherty and other
5 persons. Mr. Dougherty has stated that his "goal is to put MRWC out of business."
6 and to see that Well No. 4 is reverted back to vacant land and will do what ever he
7 can to that end. These legal expenses are recurring operating costs that we have
8 incurred each year for the last 3-4 years and are continuing to incur now and in the
9 future.

10 **Q. DO THOSE LEGAL EXPENSES RELATE TO OPERATION OF THE**
11 **COMPANY AND PROVISION OF WATER SERVICE TO CUSTOMERS?**
12 **PLEASE EXPLAIN.**

13 A. Yes, these legal fees relate to various operations of the Company, including
14 regulatory approvals and proceedings with ADEQ, Yavapai County, and the
15 Commission relating to MRWC's provision of potable drinking water to its
16 customers.

17 **Q. HOW MUCH HAS MRWC INCURRED IN RECURING LEGAL**
18 **EXPENSES OVER THE LEAST 3-4 YEARS? PLEASE EXPLAIN.**

19 A. As of 2012, MRWC has incurred approximately \$50,000 in legal fees relating to
20 complaints, threats, and actions taken before governmental agencies. In fact, just
21 recently Ivo Buddeke filed a justice court complaint against the Company and me
22 personally regarding abuse of process and damages to his property during
23 construction of the water line connecting Well No. 4 to Well No. 1. The Company
24 also is incurring legal costs relating to condemnation proceedings relating to an
25 easement to satisfy setback requirements for operation of Well No. 4.

26

1 **Q. WHAT ARE THE COMPANY'S PRESENT RATES FOR WATER**
2 **SERVICE?**

3 A. The company's current rates are \$27.25 as a base rate.

4 **Q. WHAT ARE THE PROPOSED RATES FOR WATER SERVICE?**

5 A. It is proposed that the average bill (not the base rate) for a 5/8" meter will be
6 approximately \$80.00.

7 **Q. ARE YOU REQUESTING RECOVERY OF RATE CASE EXPENSE? IF**
8 **SO, PLEASE EXPLAIN.**

9 A. Yes, to date, the Company has incurred \$32,545.93 in rate case expense. I
10 anticipate another \$25,000 in fees relating to filing this testimony, preparation for
11 hearing and the evidentiary hearing. MRWC is a Class D utility and unfortunately
12 these rate expenses have occurred and were necessary largely due to Mr.
13 Dougherty's various motions, the order to file testimony in this case and the
14 decision to consolidate the rate case with the other pending dockets, including Mr.
15 Dougherty's complaint. In total, the Company estimates rate case expense of
16 \$57,000 to be recovered over three years because it believes a three-year cycle for
17 future rate cases is reasonable.

18 **Q. DO YOU BELIEVE \$57,000 IS A REASONABLE AMOUNT OF RATE**
19 **CASE EXPENSE GIVEN THE REQUESTED INCREASE IN REVENUE?**

20 A. Yes. To begin with, the Commission ordered this case. Further, at a prior hearing
21 relating to consolidation of the various dockets, MRWC opposed consolidation and
22 requested the rate case proceed in advance of the other dockets. MRWC made that
23 request in an effort to expedite rate relief and minimize legal expenses. The
24 Company explained that consolidation of the rate case with the rehearing docket
25 and Mr. Dougherty's complaint proceeding would dramatically increase rate case
26 expense. The Company also requested that the rate case proceed as normal for a

1 Class D utility without an evidentiary hearing or filing of any testimony. Those
2 arguments were rejected and the Company was forced to deal with multiple
3 dockets in the rate case and was required to file testimony. As a result, the
4 Company has incurred substantial legal expenses responding to numerous filings
5 by Mr. Dougherty in the consolidated dockets, as well as filing testimony, plus a
6 full evidentiary hearing, followed by a Recommended Order and an appearance
7 before the Commission. To say the least, MRWC's history has been fraught with
8 controversy and disputes involving Mr. Dougherty and others. What makes the
9 additional legal expenses even more frustrating is that Mr. Dougherty is not even a
10 customer of the Company. In fact, I am likely being conservative—given the past
11 history with Mr. Dougherty, the request of \$57,000 is likely going to be less than is
12 actually incurred. The costs incurred due to Mr. Dougherty's intervention certainly
13 will impact MRWC and its customers.

14 **Q. WHY DO YOU REFER TO THE REQUESTED RATE CASE EXPENSE AS**
15 **AN ESTIMATE?**

16 **A.** Because I can only provide an estimate at this time. If things turn out more
17 complicated than anticipated, the Company may modify its request to account for
18 increased legal expense. On the other hand, if the case proceeds and rate case
19 expense is lower than expected, MRWC would make an appropriate adjustment
20 downward. This way, whatever the final amount incurred and requested, the
21 Commission can, and respectfully should, ensure that the Company recovers most
22 if not all of its rate case expense in this case.

23 **V. FINANCING APPLICATIONS.**

24 **Q. OKAY, LET'S NOW ADDRESS YOUR FINANCING APPLICATIONS IN**
25 **THIS CASE. ON APRIL 12, 2013, YOU FILED THREE APPLICATIONS**
26 **FOR FINANCING APPROVAL, CORRECT?**

1 A. Yes.

2 Q. OKAY, LET FOCUS ON THE FINANCE APPLICATION FOR
3 APPROVAL OF \$108,000 IN FINANCING FOR FOUR 20,000 GALLON
4 STORAGE TANKS. CAN YOU EXPLAIN THIS REQUEST AND HOW
5 YOU ARRIVED AT THOSE FINANCING NUMBERS?

6 A. The engineers from the Commission determined that MRWC needs two 40,000
7 gallon storage tanks to meet the customer demand during fire flow demand.
8 However, I believe that four 20,000 gallon storage tanks is more appropriate. If a
9 tank requires any type of maintenance/repair, it must be taken out of service and
10 may be out of service from one to two weeks depending on the required
11 maintenance/repair. Four 20,000 storage tanks would be more advantageous to
12 that end. Also, due to the overhead power lines at Well No. 1, there are height and
13 width limitations which would limit the 40,000 gallon storage tank. The \$108,000
14 financing amount was based on the quote received from Cashion Tank and an
15 estimate of the permitting requirements by ADEQ and the County and engineering
16 costs.

17 Q. ARE THOSE STORAGE TANKS NECESSARY FOR ADEQUATE WATER
18 SERVICE AND FIRE FLOW?

19 A. Yes, according to ADEQ, there should be 500 gpm for fire flow demand. The
20 current tanks at Well Nos. 1 and 2 leak extensively. As such, the additional
21 storage tanks are necessary for adequate water service and fire flow.

22 Q. IS APPROVAL OF THIS FINANCE REQUEST IN THE BEST INTEREST
23 OF THE COMPANY AND ITS CUSTOMERS?

24 A. Yes, for the reasons noted above. I also would note that if financing for these
25 tanks is not approved, I believe that within one year, Well site No. 1 and 2 will no
26 longer be able to store water, which would mean that there would only be one

1 5,000 gallon storage tank feeding the whole system.

2 **Q. DOES COMMISSION STAFF SUPPORT ADDITIONAL STORAGE**
3 **CAPACITY FOR THE COMPANY?**

4 A. Yes. The Company original requested two 30,000 gallon storage tanks but the
5 Commission engineers determined that two 40,000 storage tanks were needed.

6 **Q. OKAY, LETS TALK ABOUT THE FINANCE APPLICATION FOR**
7 **APPROVAL OF \$8,000 IN FINANCING FOR THE ARSENIC STORAGE**
8 **BUILDING. CAN YOU TELL US ABOUT THAT REQUEST?**

9 A. As noted above, the Company is seeking approval of the Nile River lease for the
10 arsenic treatment building.

11 **Q. IS THAT BUILDING NECESSARY FOR OPERATION OF THE ARSENIC**
12 **TREATMENT FACILITY?**

13 A. Yes, the arsenic treatment system is composed of two composite fiberglass tanks
14 and schedule 80 PVC pipe. Exposure to the sun would destroy the fiberglass
15 storage tanks and weaken the PVC pipe. I worked on a system in Tubac in which
16 they left the arsenic treatment system exposed to the elements for one year and, in
17 turn, during the final installation of the system, all the schedule 80 PVC pipe had
18 to be replaced. As such, the arsenic building is necessary for operation and
19 maintenance of the arsenic treatment system.

20 **Q. IS APPROVAL OF THIS FINANCE REQUEST IN THE BEST INTEREST**
21 **OF THE COMPANY AND ITS CUSTOMERS?**

22 A. Yes, this will provide the necessary funds to keep the system operating so that it
23 can continually provide water to its customers and future customers in compliance
24 with applicable drinking water standards.

25 **Q. IS THAT APPLICATION FOR THE MARCH 22, 2012 NILE RIVER**
26 **LEASE BETWEEN THE COMPANY AND NILE RIVER?**

- 1 A. Yes, the Company seeks approval of the March 22, 2012 lease agreement between
2 Nile River and MRWC.
- 3 Q. IS THAT THE AGREEMENT SIGNED BY MR. TORBENSON FOR NILE
4 RIVER?
- 5 A. Yes.
- 6 Q. OKAY, LETS FOCUS ON THE FINANCE APPLICATION FOR
7 APPROVAL OF FINANCING FOR THE ARSENIC TREATMENT
8 SYSTEM. DID ADEQ ESSENTIALLY ORDER THAT THE COMPANY
9 INSTALL AND OPERATE SUCH A TREATMENT SYSTEM?
- 10 A. Yes.
- 11 Q. IS THAT APPLICATION FOR THE LEASE AGREEMENT BETWEEN
12 THE COMPANY AND FINANCIAL PACIFIC?
- 13 A. Yes.
- 14 Q. THAT IS THE AGREEMENT DATED MAY 2, 2012?
- 15 A. Yes.
- 16 Q. ARE THE TERMS OF THE MAY 2, 2012 AGREEMENT WITH
17 FINANCIAL PACIFIC THE SAME AS THE APRIL 2012 AGREEMENT
18 WITH FINANCIAL PACIFIC?
- 19 A. Yes, except for the dates.
- 20 Q. IS APPROVAL OF THIS FINANCE REQUEST IN THE BEST INTEREST
21 OF THE COMPANY AND ITS CUSTOMERS?
- 22 A. Yes, this will provide the necessary funds to pay for the arsenic treatment plant so
23 that MRWC can continually provide water to its customers and future customers in
24 compliance with applicable drinking water standards.
- 25 Q. IN DOCKET NO. 12-0204, YOU FILED AN APPLICATION FOR
26 APPROVAL OF FINANCING IN THE AMOUNT OF \$68,592 FOR

1 **CONSTRUCTION OF A WATER LINE CONNECTING WELL NO. 1 AND**
2 **WELL NO. 4?**

3 A. Yes.

4 **Q. IS THE COMPANY STILL SEEKING APPROVAL FOR THAT**
5 **FINANCING AND IS IT NECESSARY FOR ADEQUATE WATER**
6 **SERVICE?**

7 A. Yes, however, MRWC is well informed and understands that Well No. 4 is not
8 currently being used. In the event that the Commission rejects the financing on
9 that basis, the Company reserves the right to seek recovery in a future rate case
10 once Well No. 4 is being used by the Company. However, it would be in the best
11 interest of the Company and its customers to include Well No. 4 in this rate case.

12 **Q. IN DOCKET NO. 12-0205, YOU FILED AN APPLICATION FOR**
13 **APPROVAL OF FINANCING FOR \$21,000 FOR PURCHASE OF ASSETS**
14 **RELATING TO WELL NO. 4. CAN YOU EXPLAIN THAT REQUEST?**

15 A. Yes, I used my personal, separate, and private funds to pay the final debt owned on
16 the assets and property.

17 **Q. IS THE COMPANY STILL SEEKING APPROVAL FOR THAT**
18 **FINANCING AND IS IT NECESSARY FOR ADEQUATE WATER**
19 **SERVICE?**

20 A. Yes, but here again, MRWC is well informed and understands that Well No. 4 is
21 not currently being used by the Company. In the event that the Commission
22 rejects the financing on that basis, the Company reserves the right to seek recovery
23 in a future rate case once Well No. 4 is being used by the Company.

1 **Q. IN DOCKET NO. 12-0206, YOU FILED AN APPLICATION FOR**
2 **APPROVAL OF FINANCING FOR \$15,000 FOR PURCHASE OF AN 8,000**
3 **GALLON HYDRO-PNEUMATIC TANK. CAN YOU EXPLAIN THAT**
4 **REQUEST?**

5 A. Yes, the two 2,000 gallon hydro tanks which are in use have been repaired twice.
6 These hydro tanks are not epoxy coated and are subject to corrosion. It also is
7 important to understand how a hydro-pneumatic tank operates. There needs to be
8 a balance between the amount of water and air. So, therefore, a 2,000 gallon
9 storage tank is not really holding two thousand gallons of water. In reality, it is
10 holding approximately 750 gallons of water and the remainder is compressed air.
11 So, an 8,000 gallon storage tank may only hold 4,000 gallons of water depending
12 on the system and demand. A brand new hydro tank will cost anywhere from
13 \$40,000 (for a 2,000 gallon) to \$80,000. The request of \$15,000 for a very well
14 maintained 8,000 gallon epoxy coated tank is reasonable. The current hydro tank at
15 Well No. 2 does not operate properly and needs replacement. The intent is to
16 move the Well No. 1 hydro tank to Well No. 2 and install the newer larger tank at
17 Well No. 1.

18 **Q. IS THE COMPANY STILL SEEKING APPROVAL FOR THAT**
19 **FINANCING AND IS IT NECESSARY FOR ADEQUATE WATER**
20 **SERVICE?**

21 A. Yes, the hydro tank (which is epoxy coated) is necessary to reduce the amount of
22 operation of its pumps, to replace the current tank with a longer lasting pump tank,
23 and to assist for the future fire flow demand.
24
25
26

1 **IV. RESPONSE TO DOUGHERTY COMPLAINT.**

2 **Q. OKAY, LETS CHANGE SUBJECTS TO MR. DOUGHERTY'S**
3 **COMPLAINT. CAN YOU SUMMARIZE THE RELATIONSHIP**
4 **BETWEEN MR. DOUGHERTY AND THE COMPANY AND YOURSELF?**

5 A. To say that Mr. Dougherty and the Company/myself have a tenuous relationship is
6 an understatement. From my perspective, Mr. Dougherty has done everything in
7 his power to cause problems for the Company and myself. Mr. Dougherty has
8 stated publicly that his "goal is to put this company out of business."

9 **Q. IS MR DOUGHERTY A CUSTOMER OF THE COMPANY?**

10 A. No, he owns property located within the Company's CC&N. He normally rents
11 his property and does not receive water service from MRWC, nor has he requested
12 water service from the Company.

13 **Q. HAS MR. DOUGHERTY ENGAGED IN CONDUCT THAT HAS BEEN**
14 **HARMFUL TO THE COMPANY AND ITS CUSTOMERS? PLEASE**
15 **EXPLAIN.**

16 A. Yes, Mr. Dougherty's conduct and various actions before ADEQ, the County,
17 WIFA and the Commission has cost the Company lots of money and threatened
18 the provision of water service to MRWC's customers. For example, Mr.
19 Dougherty has opposed construction of the arsenic facility, in turn threatening the
20 Company's ability to provide water to its customers in compliance with arsenic
21 treatment standards.

22 **Q. HAS MR. DOUGHERTY MADE ANY THREATS AGAINST YOU AND/OR**
23 **THE COMPANY?**

24 A. Yes, he has stated to Judge Lundy in Yavapai County that his "goal is to put this
25 company out of business." Mr. Dougherty also has made verbal and physical
26 threats against me personally.

1 Q. IN ALLEGATION 1 OF HIS AMENDED COMPLAINT, MR.
2 DOUGHERTY CONTENDS THAT THE COMPANY INCURRED A
3 LONG-TERM DEBT FOR ACQUISITION OF THE WELL NO. 4
4 PROPERTY. CAN YOU EXPLAIN WHAT HAPPENED WITH THE
5 WELL NO. 4 PROPERTY?

6 A. In 2005, the Company agreed to purchase Lot 500 in Lake Montezuma Estates,
7 Unit Two, for \$35,000 from property owner Anna Barbara Brunner as the
8 proposed site for location of Well No. 4. The Company made a down payment of
9 \$3,000 and the property transfer was subject to the Company's payment of
10 \$32,000 for the property. On or about November 16, 2005, Ms. Brunner recorded
11 a Warranty Deed to Montezuma Rimrock Water Co, LLC conveying Lot 500 in
12 Lake Montezuma Estates, Unit Two (Yavapai County Recorder No. B-4335 P-
13 428) to the Company. As part of the purchase agreement, the parties also recorded
14 a Deed of Trust and Assignment of Rents with the Yavapai County Recorder
15 (Recorder No. B-4335 P-429) by which the Company as Trustor conveyed the
16 property in trust to Yavapai Title Agency as Trustee and Ms. Brunner as
17 beneficiary as security for the remaining \$32,000 purchase price. The reason that
18 the purchase of the property was not included in the Company annual reports is
19 because I had originally explained to my accountant that it was going to purchase
20 the property outright. I then later explained that it needed to be included but I also
21 subsequently paid for the property from personal funds.

22 Q. MR. DOUGHERTY ALSO CLAIMS THAT THE COMPANY
23 ENCUMBERED RATEPAYER FUNDS RELATING TO THE
24 ACQUISITION OF THE PROPERTY FOR WELL NO. 4. IS THAT
25 ACCURATE?

26 A. Absolutely not. First and foremost, there are no ratepayer funds at issue. The

1 Company is a private water utility and ratepayers do not possess any ownership
2 interest in any Company funds or property. Second, the purchase price for the
3 subject property has been paid in full and there is not any outstanding long-term
4 debt or encumbrances against utility property from this transaction. On August 22,
5 2011, Yavapai Title Agency recorded a Deed of Release and Full Reconveyance
6 with the Yavapai County Recorder (Recorder No. B:4829, P:739) releasing all
7 rights to the property and reconveying the property to the Company. As a result,
8 the Company is the owner of the property, there is no existing long-term debt
9 relating to that property and there are no Company funds at issue.

10 **Q. IN ALLEGATION IV OF THE COMPLAINT, MR. DOUGHERTY**
11 **ALLEGED THAT THE "COMPANY IMPROPERLY INCLUDES WELL**
12 **NO. 4, DWR 55-213141, AS PART OF ITS "WATER COMPANY PLANT**
13 **DESCRIPTION" IN ITS ANNUAL REPORTS IN 2007, 2008, 2009 AND**
14 **2010. WELL NO. 4 HAS NEVER BEEN APPROVED FOR OPERATION**
15 **BY YAVAPAI COUNTY AND THE COMPANY DOES NOT HAVE A**
16 **'CERTIFICATE OF COMPLIANCE' TO OPERATE THE WELL**
17 **BECAUSE IT WAS BUILT IN VIOLATION OF THE YAVAPAI COUNTY**
18 **WATER CODE AND ENCROACHES ON NEIGHBORING PROPERTY**
19 **RIGHTS." CAN YOU PROVIDE A SUMMARY OF THE CURRENT**
20 **SITUATION RELATING TO OPERATION OF WELL NO. 4 AND THE**
21 **COUNTY ZONING REQUIREMENTS?**

22 **A.** Although the Company currently does not have County approval for operation of
23 Well No. 4, the Company is in the process of resolving those issues through
24 condemnation proceedings to obtain encroachment rights and then the Company
25 will undertake permit proceedings with Yavapai County. Well No. 4 is not
26 currently being used by the Company. It should be noted that, originally, MRWC

1 MRWC went to the County to request assistance for the proper procedures and
2 installation of the well and the property. It was informed by a county employee
3 that I needed not to worry. The normal process for a water company was to move
4 forward and then to go to the County with the change request and because it was a
5 utility, the County would approve the property and the well because one of the
6 county requirements is that it must see that the County supports the water supply to
7 the community.

8 **Q. WOULD THE COMPANY AND ITS CUSTOMERS BENEFIT FROM**
9 **OPERATION OF WELL NO. 4?**

10 A. Yes; at this time, there are no backup wells. Should Well No. 1 discontinue
11 operation, there are no other wells to provide water. Well No. 4 would be able to
12 provide water. Well No. 1 has been in operation since its inception. It has had no
13 maintenance or improvements to ensure its continued operation. Well No. 4 would
14 also benefit customers in its ability to provide ample water supply for fire
15 protection.

16 **Q. IN ALLEGATION VII, MR. DOUGHERTY ALLEGES THAT THE**
17 **"COMPANY IS IN VIOLATION OF STATE AND FEDERAL SAFE**
18 **WATER STANDARDS AND IS OPERATING UNDER AN ARIZONA**
19 **DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ) CONSENT**
20 **ORDER (SINCE JUNE 2010) REQUIRING CUSTOMERS TO MAKE AN**
21 **APPOINTMENT TO OBTAIN BOTTLED WATER FROM THE**
22 **COMPANY'S OFFICE." HOW DO YOU RESPOND?**

23 A. The Company is operating under an ADEQ Consent Order. The Company is not
24 violating any safe drinking water standards for arsenic. ADEQ issued an Approval
25 of Construction Partial Approval on November 21, 2012 authorizing the Company
26 to begin operation of the Arsenic Treatment Facility. The Company is currently

1 operating the Arsenic Treatment Facility through use of Well No. 1 and has
2 complied with applicable arsenic standards for drinking water. The Company
3 received Drinking Water Inorganic Chemical Analysis Reports from ADEQ for
4 water samples taken on November 29-30, 2012 and December 1-2, 2012, with
5 arsenic results reported well below the MCL of 0.01 for arsenic. The Company
6 provided those test results to Commission Staff on December 13, 2012. MRWC
7 will continue to be under the consent order with ADEQ until it can successfully
8 report four quarterly samples with arsenic levels below 10 ppb. Once this happens,
9 then the consent order will go away. This is normal procedure and I believe,
10 through my research, ADEQ has approximately 22 systems that are under a
11 consent order such as the one for MRWC. MRWC worked with ADEQ to
12 determine the method in which to provide bottled water to its customers. It
13 followed the same procedure that other systems had to comply with in providing
14 bottled water. Each system is unique and was handled accordingly. The fact that
15 customers needed to make an appointment is not out of the ordinary nor was it a
16 major burden on customers. ADEQ also required that the customers must provide
17 their own one gallon containers in order to obtain treated water. In fact,
18 approximately 75% of MRWC customers have a reverse osmosis system in their
19 household.

20 **Q. IS THERE ANYTHING ELSE YOU WOULD LIKE TO ADD?**

21 A. Yes, it should be noted that Mr. Dougherty is not a current customer of the
22 Company. Yet Mr. Dougherty has undertaken a number of actions in an effort to
23 prevent the Company from constructing and operating an arsenic treatment facility,
24 including this Complaint proceeding, motions to prevent construction of the
25 Arsenic Treatment Plant and filing of complaints and objections with Yavapai
26 County and ADEQ. Even further, Mr. Dougherty filed objections with WIFA

1 relating to potential financing for the Arsenic Treatment Facility. Mr. Dougherty's
2 actions have jeopardized the interests of MRWC customers.

3 **Q. IN ALLEGATION VIII, MR. DOUGHERTY ALLEGES THAT THE**
4 **"COMPANY IS IN VIOLATION OF DECISION NO. 71317 IN DOCKET W-**
5 **04254-09-0361, 0362 SINCE DECEMBER 31, 2009 BY FAILING TO**
6 **OBTAIN AN ADEQ CERTIFICATE OF APPROVAL FOR WELL NO. 4."**
7 **IN DOCKET NOS. W-04254-08-0361 AND -0362, STAFF RECOMMENDED**
8 **THAT THE COMPANY BE REQUIRED TO FILE AN APPROVAL OF**
9 **CONSTRUCTION (AOC) FOR THE ARSENIC TREATMENT PLANT TO**
10 **BE FUNDED BY THE WIFA LOAN AND AN AOC FOR THE NEW WELL**
11 **NO. 4. HOW DO YOU RESPOND?**

12 **A.** The Company acknowledges that it does not have an AOC for Well No. 4, but the
13 Company is undertaking all reasonable efforts to obtain ADEQ and County
14 approvals for Well No. 4. Well No. 4 is not currently being used by the Company
15 and the Company's failure to obtain an AOC for Well No. 4 did not harm any
16 customers of the Company and does not justify any complaint action against the
17 Company. Further, MRWC received an extension from ADEQ for the AOC until
18 October 2013. MRWC filed a request with the Commission regarding the WIFA
19 loan. MRWC requested that the WIFA loan request be nullified due to the fact that
20 the loan was no longer needed because funding was obtained through the lease
21 agreements and because Mr. Dougherty's demands for an environmental impact
22 study as a condition for WIFA funding made WIFA financing impossible or
23 impracticable for the Company.

24 **Q. IN ALLEGATION X, MR. DOUGHERTY ALLEGES THAT THE**
25 **"COMPANY PROVIDED INCOMPLETE AND MISLEADING**
26 **STATEMENTS TO COMMISSION INVESTIGATORS IN JANUARY 2010**

1 **CONCERNING ITS YAVAPAI COUNTY ZONING ISSUES RELATED TO**
2 **WELL NO. 4. THE COMPANY'S INCOMPLETE AND MISLEADING**
3 **STATEMENTS TO ACC INVESTIGATORS IS [SIC] A VIOLATION OF**
4 **R14-2-411." WHAT IS YOUR RESPONSE?**

5 A. I'm not exactly sure what Mr. Dougherty is referring to on this issue. But I would
6 note that Commission Staff has not filed any complaint or taken any action against
7 the Company relating to any such statements. This seems to be yet another effort
8 by Mr. Dougherty to cause trouble for the Company. I am unaware that there are
9 any ACC investigators. I'm not sure I have ever spoken to an ACC "investigator."

10 **Q. IN ALLEGATION XI, MR. DOUGHERTY ALLEGES THAT THE**
11 **"COMPANY IMPROPERLY BILLED AND COLLECTED AN 'ARSENIC**
12 **SURCHARGE IN DECEMBER 2009 IN VIOLATION OF COMMISSION**
13 **DECISION NO. 71317." IN ALLEGATION XII, MR. DOUGHERTY**
14 **ALLEGES THAT THE "COMPANY IMPROPERLY BILLED AND**
15 **COLLECTED AN 'ARSENIC SURCHARGE IN APRIL 2011 IN**
16 **VIOLATION OF COMMISSION DECISION NO. 71317." WHAT IS YOUR**
17 **RESPONSE TO THOSE ALLEGATIONS?**

18 A. The Company acknowledges that the arsenic surcharge was improperly invoiced in
19 December 2009. The Company acknowledges that the arsenic surcharge was
20 improperly invoiced in April 2011 and further alleges that the Company fully
21 refunded such surcharges to customers. When MRWC asked if it could implement
22 the surcharge, MRWC was informed by a former ACC staffer that it "technically
23 had the authority to implement the arsenic surcharge." MRWC thought it had
24 authority to implement the surcharge and immediately stopped the surcharge once
25 the Company learned it could not.

1 Q IN ALLEGATION XV, MR. DOUGHERTY ALLEGES THAT THE
2 "COMPANY FAILED TO IMMEDIATELY REPORT TO THE
3 COMMISSION THAT [THE] COMPANY'S RECORDS HAD BEEN
4 STOLEN DURING A SERIES OF BURGLARIES THAT ALLEGEDLY
5 BEGAN IN OCTOBER 2009 AND CONTINUED INTO 2010. DESPITE
6 THE SERIOUS IMPACT TO THE COMPANY FROM RECORDS BEING
7 STOLEN, THE COMPANY FAILED TO NOTIFY THE POLICE AND
8 MAKE FORMAL REPORTS OF THE THEFTS." WHAT IS YOUR
9 REACTION TO THIS CLAIM?

10 A. This is a good illustration of the type of allegations that Mr. Dougherty has made
11 against the Company in an effort to cause harm to the Company. The Company
12 does not have any obligation to report burglaries to the Commission or the police
13 as alleged by Mr. Dougherty in this allegation. The Company's failure to report
14 such incidents to the Commission or the police did not violate any Commission
15 statutes, rules or regulations or Decision No. 67583 as alleged by Mr. Dougherty.
16 That's not to mention that the Company is not at fault for the illegal and harmful
17 conduct of third persons responsible for such incidents. MRWC was aware that
18 there was an intruder in to the company office but could not determine what was
19 missing. As MRWC had thousands of dollars of equipment that was not touched, it
20 was unaware at the time that any documents might be missing.

21 Q. IN ALLEGATION XVII, MR. DOUGHERTY ASSERTS A VARIETY OF
22 CLAIMS RELATING TO THE LEASE AGREEMENTS FOR THE
23 ARSENIC TREATMENT FACILITY. CAN YOU RESPOND TO THOSE
24 ALLEGATIONS?

25 A. Sure. To start, Mr. Dougherty claims that "Montezuma knowingly and willfully
26 violated the January 4, 2012, March 12, 2012 and April 9, 2012 Procedural Orders

1 in Docket W-2454A-08-0361, W-4254A-08-0362 by failing to docket a March 22,
2 2012 Capital Lease agreement between Montezuma and Nile River Leasing, LLC
3 for an arsenic treatment building. Instead, the Company docketed a purported
4 March 16, 2012 lease agreement between Ms. Patricia Olsen, personally, and Nile
5 River leasing for the building. Mr. Dougherty claims this action was undertaken to
6 circumvent Commission approval of capital leases in violation of ARS S40-301,
7 ARS S40-301, ARSS40-424 and ARS S40-425.” That simply isn’t true.

8 Originally, Odyssey Financial provided me with two versions of the lease
9 agreement—two leases for my personal signature and one for the Company. I did
10 not draft those lease documents—rather they were provided by Odyssey Financial.
11 The Nile River lease is not a contract document or form created by MRWC. Those
12 documents were provided by Odyssey Financial to myself.

13 **Q. IN HIS MOTION, MR. DOUGHERTY CITES TO THE FACT THAT THE**
14 **SIGNATURE OF MS. RICHARDS ON THE MARCH 16, 2012 LEASE**
15 **AGREEMENTS IS NOT AN AUTHORIZED SIGNATURE. CAN YOU**
16 **EXPLAIN THAT?**

17 **A.** I do not know who signed that agreement for Nile River—I believed it was an
18 authorized signature of Nile River. I also would note that the March 22, 2012 lease
19 signed by Mr. Torbenson is the actual agreement between MRWC and Nile River.

20 **Q. CAN YOU EXPLAIN THE CIRCUMSTANCES SURROUNDING THOSE**
21 **AGREEMENTS RELATING TO ADEQ AND ARSENIC TREATMENT?**

22 **A.** At that time, MRWC faced substantial pressure from ADEQ to address the arsenic
23 problem. MRWC attempted to find financing for the arsenic treatment facilities
24 and Odyssey Financial provided the only available option. In turn, I signed both
25 lease agreements with Nile River dated March 16, 2012. As originally proposed, I
26 intended to proceed with the personal leases with Nile River in order to expedite

1 the financing and construction of the arsenic facilities. Subsequently, however,
2 Nile River informed me that it could not enter a lease with me personally and that
3 the Company needed to be party to the agreement. Odyssey Financial then
4 provided the March 22, 2012 lease agreement between MRWC and Nile River.

5 I acknowledge that the Company should have docketed the March 22, 2012
6 lease agreement between MRWC and Nile River and sought Commission approval.
7 MRWC apologizes for that omission. The Company also acknowledges that the
8 Nile River lease agreement is a capital lease based on Rider 2. Unfortunately,
9 MRWC did not have a copy of Rider 2 in its files. In any event, the Company
10 submitted the March 22, 2012 Nile River lease agreement for Commission
11 approval in its Notice of Filing Financing Applications on April 12, 2013. MRWC
12 also docketed that lease agreement and the May 2, 2012 lease agreement with
13 Financial Pacific with the Commission on October 26, 2012 in Docket No. 12-
14 0204.

15 **Q. WHAT TYPES OF IMPACTS DID THE ARSENIC ISSUES AND**
16 **DEALINGS WITH MR. DOUGHERTY HAVE ON YOU?**

17 A. To say the least, I worked fervently to continue the success of my company and
18 address the arsenic issues. During the months of February 2012 to the final
19 installation of the arsenic treatment system in November 2012, I was getting
20 approximately 5 hours of sleep each week due to the stress caused by the arsenic
21 issues and Mr. Dougherty's efforts to undermine the Company.

22 **Q. DID YOU INTEND THAT THE COMMISSION AND ITS STAFF WOULD**
23 **REVIEW AND APPROVE THE LEASE AGREEMENTS?**

24 A. Yes, I was in contact with Commission Staff relating to the lease agreements and
25 MRWC docketed the lease agreements on October 26, 2012. The fact that MRWC
26 docketed those agreements in October 2012 shows that the Company intended for

1 the Commission to review the leases. MRWC intended that the lease agreements
2 would be considered and reviewed by the Commission in this rate case.

3 Mr. Dougherty focuses on timing of the lease agreements with both Nile
4 River and Financial Pacific. On those issues, it bears repeating that MRWC was
5 under immediate orders and pressure from ADEQ to install an arsenic treatment
6 system. ADEQ informed MRWC that if it did not install the arsenic treatment
7 system, it would be fined \$150,000. For that reason, MRWC proceeded with the
8 lease agreements and installation of the arsenic facility. MRWC customers clearly
9 benefitted through financing and construction of arsenic treatment facilities.
10 Customers are receiving water in compliance with Safe Water Drinking standards
11 for arsenic. Further, MRWC didn't start making payments to Financial Pacific for
12 the arsenic treatment system until October 23, 2012. MRWC started making
13 payments to Nile River for the arsenic building on December 17, 2012. Prior to
14 those dates, I made the payments to Financial Pacific and Nile River through my
15 personal checking account. Even further, the leases required up front money
16 deposits and I paid those deposits through my personal checking account.

17 **Q. CAN YOU EXPLAIN WHAT HAPPENED WITH THE TWO VERSIONS**
18 **OF THE FINANCIAL PACIFIC LEASE DATED APRIL 2012 AND MAY**
19 **2012?**

20 **A.** I will try. Both of those lease agreements were provided to MRWC and me by
21 Financial Pacific. I did not draft those lease documents—rather they were
22 provided by Financial Pacific. That lease is not a contract document or form
23 created by MRWC. Odyssey Financial had originally provided an undated lease
24 agreement to MRWC, which was signed by me. Subsequently, I spoke with a
25 representative of Financial Pacific and was advised that it would take 30-60 days to
26 finalize the agreement. As a result, Financial Pacific provided two copies of the

1 lease agreements dated April 2, 2012 and May 2, 2012. Representatives of
2 Financial Pacific advised me that the agreement could be dated in April or May.
3 At the time, MRWC focused on getting the financing in place for the arsenic
4 treatment plant. For these reasons, I considered the May 2012 Financial Pacific
5 lease as the final agreement. I should also mention that the April 2012 and May
6 2012 Financial Pacific lease agreements have identical terms and conditions.

7 The Company acknowledges that the Company should have docketed the
8 lease agreements and apologizes for the mistake. The Company did not have any
9 ulterior or improper motive. MRWC corrected that omission by docketing those
10 agreements in October 2012 and then seeking financing approval for those leases in
11 April 2013. The Company was subject to sanctions and penalties by ADEQ for
12 failure to resolve the arsenic treatment problem and believed that it was necessary
13 to enter the lease agreements for the arsenic treatment facility. Further, neither the
14 Commission nor any customers have suffered any harm as a result of the lease
15 agreements with Nile River Financial Pacific and, in fact, customers have
16 benefitted from construction and operation of the arsenic treatment facility. The
17 Company intended that the Commission would review the terms and conditions of
18 that lease in its pending rate case. MRWC also contacted staff to inform them that
19 the personal leases were not preferable because Mr. Dougherty raised objections
20 about lack of Commission review. In turn, the Company entered the leases with
21 the clear intent of submitting them for Commission review and approval.

22 **Q. IN HIS FILINGS, MR. DOUGHERTY HAS REQUESTED A NUMBER OF**
23 **MAJOR ACTIONS BE TAKEN AGAINST THE COMPANY, INCLUDING**
24 **REFERRAL FOR CRIMINAL ACTIONS, REVOCATION OF THE**
25 **COMPANY'S CC&N AND OTHER SIMILAR ACTIONS. CAN YOU**
26 **PLEASE COMMENT ON THOSE REQUESTS?**

1 A. MRWC is a small water utility with limited resources and those types of actions
2 against the Company would not benefit the Company or customers. The Company
3 is providing adequate water utility service to customers and Mr. Dougherty has not
4 alleged, let alone shown, any reason for revoking the Company's CC&N. Mr.
5 Dougherty has undertaken numerous efforts to undermine MRWC's operations and
6 has cost the Company thousands of dollars in legal fees and related costs. MRWC
7 certainly has made its share of mistakes, but the Company has undertaken
8 reasonable efforts to address the arsenic treatment problems with limited resources
9 and under difficult circumstances. That's not to mention that Mr. Dougherty is not
10 a customer of the Company. I can't explain why a non-customer such as Mr.
11 Dougherty has taken such a personal vendetta against the Company. But I would
12 ask that the Commission put a stop to Mr. Dougherty's actions and prevent them in
13 the future. Again, Mr. Dougherty is not a customer of the Company and his use of
14 the Commission to conduct a personal grudge against the Company and me does
15 not seem to be the proper use of Commission resources.

16 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

17 A. Yes.

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